IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMM. FOR JUDGMENT NO.573 OF 2003

IN

SUMM.SUIT NO.3880 OF 2002

Sureshchandra Jaichandji HUF.. Plaintiff

versus

Subhash Tile Centre & anr Defendants

Mr Ramesh Jain for Plaintiff

CORAM : D.G. KARNIK, J

DATED : 19th April 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None present for the defendants. Learned counsel for the plaintiff files two affidavits of service dated 9th March, 2005 and 19th April, 2005 proving the service of the Summons for Judgment on the defendants through its advocate. Despite service of the Summons for Judgment the defendants have not applied for leave to defend nor filed any affidavit in reply.

2. Learned counsel for the plaintiff hands in the original documents along with a list. The documents are collectively marked Exhibit A. In the absence of any application for leave to defend, the averments made in the plaint are deemed to be accepted. The plaintiff is entitled to a decree under order 37 Rule 3 (6) of the Code of Civil Procedure. In the circumstances, Summons for Judgment is made absolute and suit of the plaintiff is decreed as follows :

> " The defendant shall pay to the plaintiff a sum of Rs.1,45,766.57 together with interest on the principal sum of Rs.80,000/-at 9 % p.a. from the date of the suit till payment and all costs of the suit. "

D.G.KARNIK, J